

Maine Revised Statutes
Title 12: CONSERVATION
Chapter 803: FOREST HEALTH AND MONITORING
HEADING: PL 1999, c. 790, Pt. A, §17 (rpr)

§8424. PROGRAM PLANNING

1. General authority. In accordance with the provisions of this subchapter, the Bureau of Forestry, acting under the supervision of the director, shall be empowered to plan for and undertake activities related to spray projects and management programs on behalf of the State.

[1979, c. 737, §12 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

2. Application for spray project eligibility. Forest land owners may apply to the director prior to December 1st of any year to be eligible to participate in the spray projects for the following 5 years. The application must show:

- A. The name and address of the applicant and its agent, if any; [1979, c. 737, §12 (NEW) .]
- B. The number and location on maps prescribed by the director of the acres of forest land for which application is being made; [1979, c. 737, §12 (NEW) .]
- C. The location on maps prescribed by the director of the timber types, timber ages and proportions of spruce, fir and non-host species within such forest land; [1979, c. 737, §12 (NEW) .]
- D. The location on maps of private and public road access to such forest land; [1979, c. 737, §12 (NEW) .]
- E. The location on maps of all residences within that forest land; [1979, c. 737, §12 (NEW) .]
- F. A 5-year cutting plan for such forest land showing plans for timber cutting, road construction and other planned land utilizations; and [1979, c. 737, §12 (NEW) .]
- G. Any other information pertinent to the description, utilization and management of such forest land as the director may require for purposes of spray project and management program planning. [1979, c. 737, §12 (NEW) .]

The date for submission of the information required under subsection 2, paragraph C may be extended by the director upon a showing that such information is not then available.

Cutting plans accompanying the application may be utilized by the Bureau of Forestry for planning purposes, and may be shared with other government agencies, but do not constitute records available for public inspection or disclosure pursuant to Title 1, section 408-A.

For excise tax purposes, such application must designate one person who must be billed and notified of any lien recorded under this subchapter. When a tax bill or notice of lien is sent to this person, it constitutes notice to all other landowners listed on the application. Each forest land owner is jointly and severally liable for any tax, penalty or interest imposed under this subchapter.

[2011, c. 657, Pt. W, §7 (REV); 2011, c. 662, §10 (AMD); 2013, c. 405, Pt. A, §23 (REV) .]

3. Effect of application. The director shall accept, not later than December 1st of each year, any application which to his satisfaction meets the requirements of this section and any additional criteria which the director may impose by regulation in furtherance of the legislative policies of this subchapter. By December 31st, the director shall certify in writing to the State Tax Assessor the complete list of all

participants in the program. The list shall include the names of the forest landowners, the names and addresses of the persons designated to be billed and served with notices of liens, particularized descriptions of the real estate included in the spray program area and statements of the acreage included in each parcel. If a change in ownership occurs after December 31st, the director shall inform the State Tax Assessor not later than the following September 1st.

Upon the director's acceptance of any such application, the forest land involved shall, for a period of 5 years, be and remain eligible for inclusion within the spray project, and shall be subject to taxation pursuant to section 8427, regardless of any change in ownership of such forest land. The areas sprayed each year shall be determined on an annual basis pursuant to subsection 4. At the expiration of the 5-year period, application must be renewed by the forest land owner and accepted by the director in accordance with this section in order to enable continued eligibility for participation in subsequent spray projects. Forest land which is eligible for inclusion within the spray project and which has been accepted by the director may be withdrawn from the spray program area prior to the end of the 5-year period, provided that the withdrawal is made no later than December 1st to be effective for the spray project of the following year and that during the 5-year period:

- A. Changes in present law, regulation or Maine Forest Service policy prohibit the forest land from being treated with either biological or chemical insecticides; [1981, c. 565, (NEW).]
- B. Natural disaster, such as forest fire or blowdown make insecticide treatment impractical; [1983, c. 656, §1 (AMD).]
- C. The director determines that withdrawal of the forest land furthers the legislative policies of this subchapter; or [1983, c. 656, §1 (AMD).]
- D. The landowner provides written assurance in the form of specific protection plans for each block of forest land proposed for withdrawal from the 5-year protection district. [1983, c. 656, §1 (NEW).]

[1985, c. 58, §1 (AMD).]

4. Spray project designation. Spray projects shall be designated in the following manner.

A. The director, acting in accordance with this subchapter, shall have ultimate and final discretion to determine, and from time to time modify, the location, type and manner of any spray project within the spray program area, subject to such regulatory review and approval by other state and federal agencies as is provided by law. The director shall make these determinations based upon evidence of the extent of budworm hazard to forest lands within the spray program area, forest stand composition, wood supply needs, buffer policies, opportunities for silvicultural and other management alternatives, the cost-effectiveness and biological soundness of spray treatment for particular forest lands, the recommendations of affected forest land owners and the public, environmental and public health concerns and such other factors as the director may deem to be in furtherance of the legislative policies of this subchapter. [1979, c. 737, §12 (NEW).]

B. The director shall, not later than December 15th of each year, make a preliminary determination of the forest lands within the spray program area to which he tentatively deems it necessary and appropriate to apply chemical or biological spray treatment in the following year. Within 15 days following such preliminary determination, the director shall furnish and make available to the affected forest land owners and to the public maps showing the forest lands preliminarily so designated. Notice of the preliminary designation shall be published in the state paper and such other newspapers as the director deems appropriate. The notice shall indicate where spray area maps will be available for inspection and where further information may be obtained, and shall provide information concerning withdrawal procedures. [1979, c. 737, §12 (NEW).]

C. Any forest land within the spray program area may be withdrawn from any annual spray project provided that a written request, adequately specifying on maps prescribed by the director the location of the acres to be withdrawn, is submitted by the forest land owner to the director no later than February 1st of the calendar year of the spray project involved. The director may at his discretion receive and act upon later-submitted requests for withdrawal. [1979, c. 737, §12 (NEW).]

[1979, c. 737, §12 (NEW) .]

5. General conditions for applications and requests. In addition to any other requirements for applications for spray project eligibility or for spray treatment and requests for withdrawal established under this subchapter, such applications and requests shall conform with the following requirements.

A. They shall be accompanied by maps, depicting the forest land involved, of the same size and scale as those accepted by the State Tax Assessor in the administration of the tree growth tax law. [1979, c. 737, §12 (NEW).]

B. They shall include a statement of ownership rights in the forest lands involved. [1979, c. 737, §12 (NEW).]

C. Subject to the provisions of paragraph D, they shall include written authorization from each owner of, or claimant to, an interest in the forest land involved, other than owners of easements and mortgages. [1979, c. 737, §12 (NEW).]

D. In the case of applications or requests affecting parcels of forest land held in common and undivided or joint ownership, a controlling or majority interest in the parcel shall have the power to make applications and requests under this subchapter and such applications and requests, as well as the decisions of the director thereon, shall be binding on all owners of interests in those lands. [1979, c. 737, §12 (NEW).]

E. Within 30 days following the transfer of any interest, other than an easement or mortgage, in any forest lands which are part of the spray program area, written notice of the transfer shall be sent to the director. [1979, c. 737, §12 (NEW).]

[1979, c. 737, §12 (NEW) .]

6. Settlement corridors. Settlement corridors are subject to the following provisions.

A. All land within 2 miles of publicly maintained roads within the district shall be designated by the director as settlement corridors. [1981, c. 278, §6 (AMD).]

B. Land within settlement corridors shall not receive insecticide spray treatment except under the following circumstances:

- (1) The land is in the spray program area;
- (2) The landowner makes a written request for the treatment not later than December 1st in the calendar year previous to the year of the spray project involved;
- (3) The request is accompanied by such information as the director may require and meets such criteria as the director may adopt in furtherance of the legislative policies of this subchapter; and
- (4) The request does not relate to land within a settlement corridor located in a municipality which has taken action to prohibit spray projects within that corridor pursuant to section 8425, subsection 2. [1983, c. 623, (AMD).]

C. The provision for settlement corridors under this section does not impair or affect the director's authority to define and carry out other policies and procedures, including, without limitation, the use of no-spray buffers, designed to protect the public health and the environment, as he deems necessary or appropriate. [1979, c. 737, §12 (NEW).]

[1983, c. 623, (AMD) .]

7. Technical assistance programs. The Bureau of Forestry shall undertake to develop and implement budworm management technical assistance programs for small wood lot owners.

[1979, c. 737, §12 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

8. Supply-demand analysis. The Bureau of Forestry shall conduct or cause to be conducted an analysis of future supply and demand for the spruce and fir resources of the State. The purpose of such analysis shall be to determine the types and levels of future spruce budworm protection needs and strategies for such spruce and fir resources.

[1979, c. 737, §12 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

9. Environmental health monitoring. The Bureau of Forestry shall cause to be conducted by an agency other than the Department of Agriculture, Conservation and Forestry an environmental health monitoring program each year in which a spray project is conducted. The Bureau of Forestry shall prepare and submit an annual report to the Legislature dealing with all aspects of the environmental health monitoring conducted during the previous calendar year.

[1979, c. 737, §12 (NEW); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

SECTION HISTORY

1979, c. 737, §12 (NEW). 1981, c. 278, §§4-6 (AMD). 1981, c. 565, (AMD). 1983, c. 623, (AMD). 1983, c. 656, §§1,2 (AMD). 1985, c. 58, §1 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2011, c. 662, §10 (AMD). 2013, c. 405, Pt. A, §23 (REV).

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